

Appl. No. 10//808,385  
Amendment Dated: July 20, 2005  
Reply to Office Action of April 20, 2005

### **REMARKS**

Upon entry of the foregoing amendment, claims 1, 3-19, and 21-28 are pending in the application, with 1, 11 and 15 being the independent claims. Claims 2 and 20 are cancelled without prejudice to or disclaimer of the subject matter therein. Claims 1, 9, 15 and 21-24 are currently amended. Claim 1 has been amended to incorporate the matter of claim 2 and to state that the shock absorbing element is connected to the lever arm. Claim 9 is amended to correct a typographical error by replacing "area" with "arm". Claim 15 is amended to incorporate the matter of claim 20. Claims 21-24 are amended to make them depend on claim 15. The Applicant submits that the amendments do not add new subject matter.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

#### **Allowable Subject Matter**

Claims 2, 6, and 20-28 were objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicant has amended claim 1 to include the subject matter of canceled claim 2, which places claim 1 in condition for allowance. The Applicant has also amended claim 15 to incorporate all of the limitations of claim 20. Accordingly, claim 15 is also in condition for allowance.

Claims 2-10, 16-19 and 21-28 depend from either claim 1 or claim 15 and are allowable for at least that reason.

#### **Claim Rejections under 35 USC 112**

Original claims 1-28 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Specifically, original claims 1, 11 and 15 were rejected because they recited that the shock absorber is connected to the frame and to the swing arm while the specification describes a shock absorber

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connected to the frame and the lever arm. Without admitting that the language of claim 1 was indefinite, claim 1 has been amended to recite that the shock absorbing element is connected to the lever arm.

Regarding claims 11 and 15, the Applicants submit that reciting a shock absorbing element connecting the swing arm (or trailing arm) to the frame does not make the claims indefinite.

Paragraph 8 of the specification states (page 3, lines 2-3) that, "[a] shock-absorbing element is connected between the swing arm and the frame". Paragraph 10 of the specification (page 3, lines 20-21) states that the invention may provide various additional aspects or features, one of which is that "the swing arm is attached to the frame through a lever arm". Thus, the specification teaches a shock-absorbing element connecting a swing arm (optionally called a trailing arm) to a frame. Connecting the swing arm to a shock absorbing element via a lever arm is taught as an example of how a shock-absorbing element may connect the swing arm to the frame. Accordingly, the Applicants submit that a person skilled in the art reading the specification would understand that the claims do not require a shock-absorbing element bolted directly to the swing arm, that the specification describes the subject matter of claims 11 and 15 and that claims 11 and 15 are enabled.

Original claim 9 was also rejected as being indefinite, with "the swing area" lacking positive antecedent basis. The words "the swing area" have been replaced by "the swing arm".

#### **Claim Rejections under 35 USC 102**

Various claims were rejected as being anticipated by US Patent No. 2,082,147 to Bryant. The Applicants do not admit that any of the claims were anticipated. However, in relation to all pending claims but for claims 11-14, the current amendments have mooted the anticipation rejection and so further comment is not required.


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In relation to claim 11, the Applicants respectfully point out that the Bryant reference discloses a conventional fixed bottom bracket (sprocket hub 13) and a horizontal fork 14 (identified by the Examiner as a swing arm). What the Examiner refers to as a pedal sleeve 15 is described by Bryant (col. 2, lines 10-13) as "frontal sections 15 of the fork (formed) into circular loops adapted to encircle the end portions of the (sprocket) hub 13". Sprocket hub 13 connects tubing posts 11 and 12 of the frame 10 together (column 1, lines 49-53) and cannot rotate relative to frame 10. The pedals in Bryant are secured and rotatable within sprocket hub 13, which cannot rotate relative to frame 10, not frontal section 15. Accordingly, frontal fork sections 15 in Bryant are not a pedal sleeve and horizontal fork 14 rotates about sprocket hub 13 rather than with hub 13. Conversely, the Applicant's disclosure describes a swing arm 5, 205, 305, 600 pivoting in a frame 10 and the pedals rotating in the swing arm. The swing arm functions as a pedal sleeve to yield a pivoting pedal sleeve rather than a fixed bottom bracket as disclosed by Bryant. Claim 11 recites a pedal sleeve rotatable relative to the frame and a trailing arm fixed for rotation with the pedal sleeve. The Applicants submit that at least these elements of claim 11 are not provided by Bryant and so claim 11 is not anticipated. Claims 12-14 are also not anticipated at least for the reasons given in relation to claim 11.

For the reasons above, the Applicant submits that the claims are allowable.

Respectfully submitted,

John SCHMIDER

By   
Scott R. Pundsack  
Reg. No. 47,330  
Tel: (416) 957-1698